

a computer or server representing several computers send network information to a host computer over the first wireless communication channel;

or, the computer or server representing several computers send a request to a host computer over the first wireless communication channel for user information;

the host stores the information received over the first wireless communication channel;

the host determines from the received information what user information to send to who;

the host transmits user information to the computers or servers; and,
at least one computer displays the user information.

4. The Office Action advised that the summary is missing from the specification.

The applicant replies that the application, as amended and in its present form, fully complies with the Patent Act and all recognizable rules and requirements appurtenant thereto. As a result, it is believed that the summary is not required, as a matter of law.

Moreover, while 37 C. F. R. §1.77 (hereinafter the "rule") mentions a "Brief summary of the invention," it is believed this rule is directed to the application's form, not its contents. This is explained below.

To begin, the rule's title, that is, "ARRANGEMENT of application elements" (emphasis supplied), itself indicates the rule is directed to the form of an application, that is, the ARRANGEMENT of elements in an application. In contrast, there is no suggestion the rule also controls the application's content, that is, whether a particular element must appear in the application. Thus, it is believed that if the rule were so directed to an application's form, then an entirely different title would appear such as, for example, "REQUIRED application elements," or the like.

Further, although the rule refers to ten (10) elements designated (a) through (j), it must be noted the rule nowhere recites that an application must contain all elements referred to. Accordingly, while lines 1-2 of the rule recite that the elements (a) through (j) "should" appear in the following "order," this cannot be read as the application "must" contain all the elements (a) through (j).

Moreover, when a "summary" element is present, the applicant concedes it must be arranged relative to other application elements in accordance with the rule. But when the "summary" element is not present, it is believed the rule is not offended as long as the remaining elements are still arranged in accordance with the rule. While the present application does not contain a "summary" element, all remaining elements

are arranged in accordance with the rule. As a result, the present application is believed allowable under the rule.

In summary, it is believed that the present application, as amended and in its present form, fully complies with the Patent Act including, but not limited to, section 112 thereof. The law requires no more.

5. The specification was objected to as failing to provide proper antecedent basis for the claimed subject matter.

With respect to claims 1, 11 and 21, the specification and also these claims themselves have been amended to cure any deficiency which may have existed in this regard. As a result, it is believed this objection has been traversed.

6. Claims 1-24 were rejected under section 112, second paragraph, as being indefinite. In response, various claims have been amended to cure any deficiency which may have existed in this regard.

Further, with respect to claims 6 and 17 (not claim 16 as stated in the Office Action), please refer to the specification at page 6, lines 23-24, as follows: "The host may also receive a request for specific user information from the computer or server." The request would be received by the host and stored as all information is. Based on the foregoing text, it will be understood that the determination of who and what information to send is always made based on stored information in the host. The request is simply another way to enter stored information (in addition to receiving network information).

7. Claims 11 and 21-24 were rejected under section 102 as being anticipated by Williams, U. S. Pat. 5,057,935. With respect to claims 11 and 21, as amended and in their present form, the applicant respectfully traverses this rejection below.

It is believed that Williams teaches a system where electronic documents, like those carried on by way of E-Mail on LAN's, are distributed from an originator to one or more recipients. A reception status log is generated for the originator when a recipient receives an electronic document from the originator. Moreover, the invention in Williams is believed to be that the status log is updated for the originator even when the intended recipient forwards the document to a third party. When that third party receives the document a confirmation of reception from the third party is generated to the originator. Williams discloses using an E-Mail server to do this function: "this may be accomplished by causing the mail server, at the location within data processing

network 8 of the recipient, to generate an indication of the unique identity of the recipient to whom the selected document was delivered". (see col. 4 line 67 through col. 5 line 3) This indication is naturally stored in the server so the originator can gain access to the status log.

It is believed the present invention and Williams may be compared as follows:

"transmitting by the plurality" (the present invention) vs. transmitting by the document recipients (Williams);

"upon receiving" (the present invention) vs. storing in the status log (Williams);

"determining" (the present invention) vs. determining the ID of the recipient (Williams);

"transmitting, by the host" (the present invention) vs. transmitting a confirmation of delivery message (Williams); and,

"after receiving" (the present invention) vs. the user referencing the status log (Williams).

It is believed the present invention may further be distinguished over Williams as follows:

In the present invention the "plurality" that is transmitting is a set of computers (claim 11) or a set of servers (claim 1) whereas in Williams it's a set of E-Mail software agents running in some remote computers for the actual recipients. The "computers" of the present invention are not E-Mail agents. They are software agents that can collect and transmit either or both of configuration information and statistical information. The Williams remote E-Mail agent is triggered to indicate reception based on the flagged desire of the originator while the present invention software agents continuously gather network information. The information that is transmitted in Williams is basically an indication of who received which recent E-Mail message while the information in the present invention is much more as detailed in the specification and summarized above (network information comprising configuration information and statistical information).

In regards to "upon receiving" in the present invention vs. storing in the Williams status log, it is noted that both situations simply receive some information and centrally store it for future use.

In regards to "determining" in the present invention vs. determining the ID of the Williams recipient, it is noted that the determining in the present invention looks at the stored network information to determine if a computer needs information about new software applications, bug fixes, etc. and it determines who needs this information based on who transmitted the stored information. This information may not dictate that

information need be transmitted subsequent to the determining process (i.e. all the computers reported that they indeed had the very latest software versions of their applications. In Williams, the determining is not as to "if" a future transmission will take place based on the stored information. To be sure, it will happen since a stored message based on a document recipient reporting a received message will require the originator to be notified. The only determining in Williams is "who" will receive the notification (i.e. the document originator). So, the present invention determines "if", "who" and "what" while Williams only teaches determining "who".

In regards to "transmitting, by the host" in the present invention vs. transmitting a confirmation of delivery message in Williams, it is noted that in the present invention the host will transmit "user information" to one or more computers or servers. It is important to note that "user information" is not the same as the stored information from the received "network information". The present invention is distinguished from Williams in that the present invention transmits "user information" that is not the same as what was received originally from the remote computers (network information). Williams teaches transmitting substantially the same information that was received, i.e. the identity of who received which document. Furthermore, one could compare the E-Mail server, that contains the status log, in Williams to the host in the present invention. While the Williams specification does not explain how information in the status log gets to the message originator, it says in claim 1 "automatically transmitting a confirmation of delivery message to said originator...". This is not supported in the Williams spec., especially the word automatically. Even if one assumes that Williams does teach transmitting information from the status log server to the originator, it would have to be on the same wireline LAN communication channel as the wireline LAN communication channel used to forward information to the server in the first place. Claim 11 in the present invention teaches using a second communication channel for the host to computer user path.

In regards to "after receiving" vs. the user referencing the status log, it is noted that the present invention teaches displaying by the at least one computer, the specific user information while Williams is vague since col. 2 lines 24-29 just says that the originator may reference the status log. Even in col. 5 lines 10-13 just say that "In this manner, the originator of the selected electronic message may simply refer to the status log to determine the identity of the actual recipient of an electronic document". Nowhere in Williams is "displaying" mentioned. Even if one were to assume that Williams does teach "displaying", it does not teach displaying specific user information that is not the same as the received network information.

In summary, it is believed this rejection has been traversed.

8. Claims 19-20 and 22 were rejected under section 103 as being unpatentable over Williams in view of Jain, U. S. Pat. 5,193,151. As above, claims 19-20 have been canceled. With respect to claim 22, as amended and in its present form, the applicant traverses this rejection below.

Jain is believed to disclose a congestion avoidance system for a packet data communication network. Each node measures the round-trip delay occurring when it sends data to a destination and receives an acknowledgment. Each node individually adjusts a network tuning parameter such as the number of packets sent in to the network or the packets per unit time sent (see col. 2 lines 17-32). This will optimize the packet through-put through the network.

Jain teaches a network architecture comprising user nodes connected to servers or routers via point-to-point or shared mediums such as LAN's or token ring (see figure 1). The servers or routers are joined together into a wide area network by links between the servers or routers. Jain discloses that these links "may include wire links in the same building or between buildings, or may include long-distance fiber optic links, as well as satellite links." (see col. 3 lines 26-29) This is basically the same reference in col. 11 lines 27-40. These are the only "wireless" references in the entire Jain patent.

Further to this point, the present invention uses two wireless communication channels. One is shared (many-to-one) for computer-to-host network information, while the other is a one-to-many channel for sending user information from the host to multiple computers or servers at the same time. Jain does not teach this, it just mentions that satellite links can be used instead of wireline links.

9. Claims 1-3, 5-6, 8, 11-13, 15-17, 21, and 23-24 were rejected under section 103 as being unpatentable over Doelz, U. S. Pat. 4,156,789 in view of Irby, III et al., U. S. Pat. 5,021,949 ("Irby"). With respect to the remaining claims as amended and in their present form, the applicant traverses this rejection below.

It is believed that Doelz describes a small packet communication network that provides communication between a plurality of dumb terminals and a host data processor. It uses node addressing and a fan-out scheme to operably connect the one host to multiple terminals.

It is believed the instant rejection is based on comparing the operation described in Doelz col. 14 lines 13-34 where the master node transmits an all call

message to all of the network nodes to stimulate responses to determine the present hierarchy of the network. More specifically, it is believed the instant rejection is based on comparing the Doelz node response transmissions to the servers transmitting network information in the present invention, the Doelz master node receiving the responses and storing it in its database is compared to the present invention host receiving and storing the network information, the Doelz master node transmitting statistics and a hierarchy database to the host processor or control console is compared to the present invention host transmitting user information to one or more of the servers or computers, and finally the Doelz control console implicitly displaying the statistics and a hierarchy database is compared to the present invention user computer displaying user information.

However, it is noted that in Doelz the node responses are in response to a poll whereas network information is generated automatically from time-to-time in the present invention. Doelz, and many other systems, certainly collect and store data. In contrast, in the present invention the raw network information is stored but an additional step of "determining" is performed to construct an appropriate message to one or more user computers, the message comprising "specific user information." The difference is more than just the step of "determining" as in Doelz the master node is simply passing on the same stored information while in the present invention network information is received by the host and user information is transmitted by the host. Even more important are the differences in the communication paths between the Doelz terminals and master node and the present invention computers and host. In Doelz, wireline data links are described in a network of individual addresses and point-to-point communication while in the present invention a first wireless communication channel is used from the computers to the host in a many-to-one shared situation and a second wireless communication channel is used from the host to the computers in a one-to-many situation. The advantage is primarily in the host to computers path in the present invention where one wireless communication path can broadcast user information to multiple (like thousands, or even millions) computers simultaneously thus saving time. Doelz would have to send one message at a time to each of the thousands or millions of targets, however it only describes sending hierarchy database information to one target, the control console.

As for Irby, it is believed this reference discloses one way of doing the "determining" that is missing in Doelz. Irby discloses a system to provide communication between market buyers and sellers, i.e. stock market, commodities, options, etc. providing "rapid exchange of information." The system comprises

subscriber receiver stations that contain a paging receiver, a telephone line connection, a message controller, and a alphanumeric display/printer. The system also has a centralized program controller and paging transmitter. The paging signaling is described such that it contains an address field to send messages from the program controller through the paging transmitter to either all of the subscribers, a group of subscribers or just one subscriber. The signaling also has a message part that is used to convey market information. Each subscriber has a phone line to provide a communication path up to the centralized program controller. Subscribers use the phone line to submit a subscriber request which contains information about the subscriber's buy or sell request (see col. 7 lines 3-9). A computer data bank (perhaps in the program controller, the specification is not real clear about this) contains a "customer database" that is used by the program controller to "determine the identification of customers who would be potential buyers or sellers of any inventory item that is offered or requested by a member unit." (see col. 6 line 67 to col. 7 line 2) Once this determining of the target subscribers is made (based on a database of who would want to receive this information in the original subscriber request), the program controller formats the paging message to their targets with the subscriber request.

This is an important distinction between Irby and the present invention, i.e. the Irby "determining" compares an inbound subscriber request buy/sell information type to a predetermined list of information type vs. subscriber addresses whereas the present invention determines what user information to distribute and to whom.

Furthermore, in Irby the information being collected from the subscribers is exactly what is being distributed on the paging channel back to a proper set of subscribers whereas in the present invention the computers or servers transmit "network information" to the host and receive "user information" where the user information does not equal the network information. The network information in the present invention is never distributed to the computers or servers, but rather it is consumed by the host to determine what type of user information to broadcast. Therefore the "determining" of Irby is not the same as the "determining" of the present invention.

It is further noted that the user marketing reports in the present invention are based on statistical information which the specification defines as how often an application is used, how often the network and computers are used, and other whereas the marketing information described by Irby is "current inventory availability" and "specific needs among the respective member of a market" (col. 1, lines 43-45).

These are not the same thing, one is historical usage information statistics and one is current inventory or future desired inventory changes.

10. Claims 4 and 14 were rejected under section 103 as being unpatentable over Doelz and Irby and further in view of the Ellison et al. article ("Ellison"). With respect to the remaining claims, as amended and in their present form, this rejection is traversed below.

The Ellison article describes what's available in LAN inventory programs that allow a network manager to poll the computers on a LAN to determine the hardware configuration and software configuration remotely. The article does not address collecting software application usage statistics, nor does it describe automatically determining what user information may be of value to the computer users, nor does it describe the transmission of user information to computers or servers (either manually or automatically). The Office Action referenced page 4 lines 39-41 to compare it to claims 4 and 14 where the present invention calls out "verifying, by the host computer, software authorization based on the software information." The specification of the present invention on page 7 lines 16-27 describes the "verifying" process as "to verify that software applications stored at each computer network, or computer are authorized copies of the software applications." In other words the host is verifying that each computer is authorized to hold a particular application. The Ellison article describes a different "verifying." It states on page 4 lines 39-41, "There are also programs with a metering feature to ensure that the program is never being used by more than the number of users authorized under your company's site license." In other words, Ellison is describing a counting program to see if the total number of application copies in use does not go beyond a contractual threshold. This would be of value in LAN situations where a server provides a centralized storage of an application. It does not describe verifying that a particular computer has or does not have a particular application.

11. Various claims were rejected under section 103 as being unpatentable over Doelz and Irby, and further in view of Ogaki et al., U. S. Pat. 4,654,799 ("Ogaki"). With respect to the remaining claims, as amended and in their present form, this rejection is traversed below.

It is believed Ogaki describes a software vending machine. A host computer stores programs for sale that can be downloaded to remote vending machines. The vending machines are capable of programming disks or tapes (or other media) locally

for software purchasers. In addition, the remote vending machines have an input means to allow a "software maniac" (see col. 2 line 16) to transfer their home grown programs up to the host so that they may be considered for resale. The reference to "pricing information" is col. 11 lines 39-47 where "price data" is described as one of the "related data" items that is passed down from the host to the vending machine when a new program is put on sale. Claims 7 & 18 are dependent claims on 1 and 11 respectively that call out displaying pricing information at the computer. In the present invention, pricing information is being displayed right at the computer being considered to receive and use new software updates, whereas the device receiving and displaying the pricing information in Ogaki is not the target computer that would use new software updates. It is a vending machine that can allow a user to select the update and download it to some media that can be hand carried to their computer at home or in the office. The present invention provides an improvement over Ogaki in that the computer user need not program an intermediate media with the desired software update and hand carry it to the target computer. Certainly many other systems display pricing information. The present invention provides it directly to the candidate computer for a software update.

12. No other grounds for rejection or objection being given, the applicant now respectfully submits that the remaining claims, as amended and in their present form, are patentable over the prior art of record, and are in condition for allowance. As a result, the applicant now respectfully requests that the Patent Office give further consideration to his application.

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